

(j) A fee may be charged for searches that are not productive and for searches for records or parts of records that subsequently are determined to be exempt from disclosure.

(k) Interest charges may be assessed on any unpaid bill starting on the 31st day following the day on which the billing was sent, at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of billing. The Debt Collection Act, including disclosure to consumer reporting agencies and the use of collection agencies, will be utilized to encourage payment where appropriate.

(l) If search charges are likely to exceed \$25.00, the requester will be notified of the estimated fees unless the requester's willingness to pay whatever fee is assessed has been provided in advance.

(m) An advance payment (before work is commenced or continued on a request) may be required if the charges are likely to exceed \$250.00. Requesters who have previously failed to pay a fee in a timely fashion (i.e., within 30 days of the date of billing) may be required to pay this amount plus any applicable interest (or demonstrate that the fee has been paid) and then make an advance payment of the full amount of the estimated fee before the new or pending request is processed.

§ 602.21 Waiver or reduction of fees.

Documents shall be furnished without any charge or at a charge reduced below the fees set forth in § 602.20 if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. The following six factors will be employed in determining when such fees shall be waived or reduced:

(a) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government;"

(b) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(c) The contribution to an understanding of the subject by the general

public likely to result from disclosure: Whether disclosure of the information will contribute to the "public understanding;"

(d) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(e) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(f) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

§ 602.22 [Reserved]

§ 602.23 GPO and free publications.

(a) The index of records available in the Agency's Office of Public Affairs will list the sales offices of records published by the Government Printing Office (GPO). The Agency will refer each requester to the appropriate sales office and refund any fee payments accompanying the request. Published records out of print at the GPO may be copied by the Agency for the requester at the requester's expense in accordance with the fee schedule established for copying service. In some instances the Agency may have extra copies of out of print GPO records. These extra copies will be provided to requesters at the printed GPO price.

(b) The Agency makes some publications or records available to the public without charge. These regulations neither change that practice nor require payment of a fee by a requester unless the original stock has been exhausted any copying services are necessary to satisfy a request.

§ 602.24 Method of payment.

(a) Payment may be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Treasury

of the United States and mailed or delivered to the FOIA Officer, U.S. Arms Control and Disarmament Agency, 320 21st Street, NW., Washington, DC 20451. Cash should not be sent by mail.

(b) A receipt for fees paid will be given upon request.

Subpart D—Denials of Records

§ 602.30 Denials.

(a) Requests for inspection or copies of records may be denied where the information or record is exempt from disclosure for reasons stated in § 602.31.

(b) Denials shall be in writing, shall set forth the reasons therefor, shall be signed by the FOIA Officer and shall include an explanation of the requester's right to appeal, including the address to which an appeal may be directed.

§ 602.31 Exemptions.

The requirements of this part to make Agency records available do not apply to matters that are:

(a) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(b) Related solely to the internal personnel rules and practices of the Agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Inter-agency or intra-agency memoranda or letters that would not be available by law to a private party in litigation with the Agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information.

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(i) Geological and geophysical information and data, including maps, concerning wells.

Subpart E—Review of Denials of Records

§ 602.40 Procedure for appealing initial determinations to withhold records.

(a) A member of the public who has requested an Agency record in accordance with subpart B of this part and who has received an initial determination that does comply fully with the request, may appeal such a determination.

(b) The appeal shall:

(1) Be in writing;

(2) Be initiated within 30 working days of the initial determination denying the request;